

From: [Barbara Nann](#)
To: [Carl Bolden](#); [Barbara Aldridge](#)
Subject: Fw: Gulfco Marine Site
Date: 03/17/2008 04:20 PM


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----- Forwarded by Barbara Nann/R6/USEPA/US on 03/17/2008 04:22 PM -----

**Douglas
Dixon/DC/USEPA/US**

03/12/2008 11:52 AM

To: Barbara Nann/R6/USEPA/US@EPA
cc: Michael Northridge/DC/USEPA/US@EPA

Subject: Re: Fw: Gulfco Marine Site 

Barbara -

I read the letter from Eldridge/Parker. There appear to be 2 separate reasons they raise for not complying:

1. They claim they don't know what to do to comply;
2. They claim they aren't liable.

I didn't read the attachment. On paper they appear to make a good case with the corporate history outlined on pages 3/4 (but I'll admit I didn't read it very carefully) but I'm going to assume that you've done all your homework and are comfortable with your liability case against Parker.

Not knowing what to do is more problematic from a non-compliance perspective. They claim to have asked both EPA and the PRPs that are already performing what they can do to participate but claim to have received no information about future costs or a proposed role for them. Usually, a subsequent UAO issued this far into the response action would order the new party to "participate and cooperate" with the working parties. However, you indicated that this wasn't drafted with P&C language and that Mark doesn't view this as a P&C order. Since the work has been going on for a couple years, it's hard to see how it isn't a P&C order. But that technicality aside, in this situation, since the work is ongoing, it would make most sense for the new party to contribute financially to the work being performed. But if no one is giving the new party adequate information, it makes "compliance" with the UAO difficult and a non-compliance case against them more difficult. I'm guessing that Eldridge/Parker has misrepresented the situation as it stands with regard to what they've been asked to do, but as presented in the letter they have a pretty decent argument for not complying at this time. What have they been asked to do to contribute to the ongoing work? They mentioned that they attended a status meeting with EPA and the performing PRPs; were they given any instructions at that meeting re monetary contributions such as a contractor to pay, or a fund in which to deposit money, or how much money, etc.? The letter also mentions the possibility that the UAO will be converted to an AOC, and that they would be willing to participate in those conversion discussions. How likely is that to

happen?

Do you want to set a time tomorrow (Thursday) to talk more about this? Are you available tomorrow Mike?

▼ Barbara Nann/R6/USEPA/US

**Barbara
Nann/R6/USEPA/US**

To Douglas Dixon/DC/USEPA/US@EPA, Michael
Northridge/DC/USEPA/US@EPA

03/10/2008 10:17 AM

cc

Subject Fw: Gulfco Marine Site

Here is the letter Parker sent. After reviewing the case law that Mike sent, my concern is if we have a case if all of the obligations under a UAO are being met and there is nothing for Parker to do.

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"Eldridge, John"
<John.Eldridge@haynesboone.com>

To Barbara Nann/R6/USEPA/US@EPA,
Gary Miller/R6/USEPA/US@EPA

02/14/2008 04:55 PM

cc

Subject Gulfco Marine Site

Barbara and Gary, here is the Parker response to the Unilateral Order. Originals were also mailed to both of you today. John Eldridge

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[attachment "Letter to EPA.pdf" deleted by Douglas
Dixon/DC/USEPA/US]